

Key Elements of Public Law 107-107 and NAVADMIN 065/03
regarding entitlement to
Active duty Survivor Benefit Plan (SBP) coverage

On 28 December 2001, President Bush signed the National Defense Authorization Act for Fiscal Year (FY) 2002. One of its provisions was the establishment of new eligibility criteria in the Survivor Benefit Plan (SBP). This new eligibility is applicable to non-retirement eligible members of the Uniformed Services who died on active duty, while in the line of duty. This includes reserve members on active duty for annual training duty, whether or not their orders specify a period of more than 30 days. Reserve members serving periods of inactive duty training (drill weekends) were not included.

- Qualified dependents include the surviving spouse, unless an annuity is payable to a former spouse, or the member's qualified child(ren) when a former spouse annuity does not apply.
- A member's qualified children are not eligible beneficiaries when a surviving spouse becomes ineligible by reason of remarriage before age 55.
- No annuity will be paid under these provisions to a person with an insurable interest.

Eligibility for enrollment in the Supplemental Survivor Benefit Plan (SSBP) is not authorized.

- The provisions of law for members who are/were retirement eligible are unchanged by the new law.
- The provisions of the law were retroactive to active duty deaths that occurred on 10 September 2001.

On 2 May 2002, the Department of Defense (DOD) published the implementing instructions for this new law. Commanding Officers/Officers in Charge (COs/OICs) are now required to appoint an Investigating Officer to determine if a member's death occurred while in the line of duty. Additionally, a LOD investigation will also be conducted in cases where the member was retirement eligible. In those cases, if the death was in the line of duty, their qualified beneficiary will be entitled to an increased SBP annuity. When determining eligibility for SBP benefits, a Sailor's death will generally be considered in the line of duty unless: (1) the death occurred while the member was not serving on active duty, (2) the death was the result of the member's own intentional misconduct or willful negligence, or (3) the death occurred during a period of unauthorized absence.

NAVADMIN 065/03 provides guidance to Navy commands when making LOD determinations in active duty death cases. Additionally, the NAVADMIN contained guidelines to be followed when a Sailor's death is determined to not be in the line of duty. PERS-62 currently reviews all LOD investigations and provides appropriate documentation to the Defense Finance and Accounting Service-Cleveland Center (DFAS-CL) to establish annuity pay accounts.

The Defense Finance and Accounting Service-Cleveland Center (DFAS-CL) is responsible for the calculation and payment of SBP annuities to qualified beneficiaries. CACOs are cautioned to provide no monetary calculations of possible SBP annuities. The DFAS-CL is responsible for the calculation and payments of SBP annuities. Completed SBP claims forms will faxed to the DFAS-CL at 216-522-6321 Attn: Hilda Ford and forwarded in the preaddressed envelope provided with the casualty package.

Casualty Assistance Regional Area Coordinators should make this information available to Casualty Assistance Calls Officers (CACOs), as well as those who were assigned such duties involving a qualified beneficiary retroactive to 10 September 2001. CACOs should contact their assigned Staff Judge Advocates (SJAs) for legal assistance, or their respective regional area coordinator regarding their individual casualty case.

The Navy Survivor Benefit Plan (SBP) Program Manager is available to answer questions and provide additional assistance as required. Should the SJA or regional area coordinator be unable to assist, the CACO should contact Mr. Basil Coleman by email at basil.coleman@navy.mil or phone DSN 882-4304 or 800-255-8950 extension 44304, or commercial 901-874-4304 for additional assistance.

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